

Enhancing Interrogation: Advancing a New Agenda

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“[The] barbarous custom of whipping men suspected of having important secrets to reveal must be abolished. It has always been recognized that this method of interrogation, by putting men to the torture, is useless. The wretches say whatever comes into their heads and whatever they think one wants to believe. Consequently, the Commander-in-Chief forbids the use of a method which is contrary to reason and humanity.”

— Napoleon Bonaparte, 1798

Within two days of his inauguration, fulfilling a campaign pledge to end abusive interrogation practices, President Barack Obama issued an executive order that revoked all previous Bush Administration “executive directives, orders, and regulations” dealing with detainee interrogation. Also overturned by the order were any previous “interpretations of the law governing interrogation” emanating from the Bush Administration’s Department of Justice. The order established Army Field Manual (FM) 2-22.3, *Human Intelligence Collector Operations*, as the new standard for conducting intelligence interrogations, applicable to all agencies of the US government, including the Central Intelligence Agency (CIA). Specifically, the executive order prohibits “any interrogation technique or approach, or any treatment related to interrogation that is not authorized by and listed in [FM 2-22.3].”¹

The adoption of the Army Field Manual as the broad standard for intelligence interrogation had its origin in passage of the Detainee Treatment Act of 2005. The act made Army Field Manual 34-52, *Intelligence Interrogation*, the predecessor document to FM 2-22.3 (published in September 2006), the legal template for all Department of Defense interrogation procedures.² Beginning in 2007, Congress pushed to extend that authority to the other elements of the intelligence community. This effort culminated in language included in section 327 of the Intelligence Autho-

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rization Act for Fiscal Year 2008, stipulating that all intelligence interrogation methods would conform to those authorized in FM 2-22.3.³

On 8 March 2008, President George W. Bush vetoed this proposed legislation. In a message to the House of Representatives explaining the veto, the President highlighted his disagreement with Congress over its attempt to restrict the CIA's continued use of enhanced interrogation techniques. President Bush emphasized that implementing such restrictions would jeopardize national security. "It is vitally important that the Central Intelligence Agency . . . conduct a separate and specialized interrogation program for terrorists who possess the most critical information in the War on Terror [which] has helped the United States prevent a number of attacks."⁴ President Bush clarified that his disagreement was "not over any particular interrogation technique . . . [but] the need . . . to shield from disclosure to al Qaeda and other terrorists the interrogation techniques they may face upon capture."⁵ His comments were consistent with his July 2007 executive order, confirming that the CIA interrogation program "fully complies with obligations of the United States under Common Article 3 [of the Geneva Conventions of 1949]" regarding humane treatment of detainees.⁶

The visceral nature of President Obama's opposition to enhanced interrogation techniques and his rejection of the Bush Administration's underlying legal rationale for them became even more apparent with his personal decision, taken against the advice of several former and serving senior intelligence officials,⁷ to authorize the Department of Justice to release (with minimal redactions) four highly classified memoranda written by its Office of Legal Counsel in August 2002 and May 2005. The memoranda, addressed to CIA Senior Deputy General Counsel John A. Rizzo, are a grim, clinical review of the enhanced interrogation techniques CIA officers were permitted to use to question suspected al Qaeda terrorist detainees regarding critical national security information they refused to divulge under traditional methods.⁸

The earliest of the four memoranda (1 August 2002), specifically dealing with the interrogation of Zayn al-Abidin Muhammed Hussein

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(also known as Abu Zubaydah), explained how the techniques are to be applied, justified their utility against a resistant subject, dispelled concerns about potential long-term harmful effects, and elaborated on medical and psychological safeguards to be observed. This memorandum also built a considerable legal argument to absolve any interrogator using enhanced techniques from allegations of torture if that individual has no “specific intent to inflict severe pain or suffering.” In painstaking detail and applying heavily footnoted legal research, two 10 May 2005 memoranda explained how the techniques may be applied individually or in combination so as not to inflict “severe physical or mental pain or suffering,” in violation of US domestic statutes and international law prohibiting torture. The memorandum of 30 May 2005 offered the following insight on the national security necessity of applying these techniques: “We understand that since the use of enhanced techniques, ‘KSM [Khalid Sheikh Mohammed] and Abu Zubaydah have been pivotal sources because of their ability and willingness to provide their analysis and speculation about the capabilities, methodologies, and mindsets of terrorists.’”⁹

In his statement approving the release of the memoranda, however, President Obama did not find their arguments morally, legally, or substantively sufficient. According to the President, the approved techniques “undermine our moral authority and do not make us safer A democracy as resilient as ours must reject the false choice between our security and our ideals.”¹⁰ On 21 May 2009, in a major address describing his national security priorities, President Obama further defended his decision regarding the memoranda and his rejection of enhanced interrogation techniques, emphasizing the importance of “striking the right balance between transparency and national security.” “Faced with an uncertain threat,” he said, “our government made decisions based on fear rather than foresight Instead of strategically applying our power and our principles, too often we set those principles aside as luxuries that we could no longer afford.”¹¹

Tougher Interrogation Equals Better Intelligence?

Human intelligence is the oldest of the intelligence disciplines, and the questioning of captured enemies to obtain information is equally ancient. Throughout the long history of interrogation there persists the seductive expectation, especially common among leaders who demand quick solutions to complex problems, that tougher interrogation provides better intelligence.

In an October 2006 interview, then-Vice President Dick Cheney agreed with his host that the use of waterboarding on high-value detainees was a “no-brainer” because it “provided us enormously valuable information” that contributed to saving American lives.¹² Speaking to the Heritage Foundation on 23 January 2008, Mr. Cheney expanded on this subject: “Among the most effective weapons against terrorism is good intelligence—information that helps us figure out the movements of the enemy, the extent of their operations, the location of their cells, the plans that they’re making, the methods they use, and the targets that they want to strike. Information of this kind is also the very hardest to obtain.” So how does the United States get access to this information? Not surprisingly, according to Mr. Cheney, we get it by talking to the terrorists themselves. For hard-core terrorists, such as 9/11 mastermind Khalid Sheikh Mohammed, Mr. Cheney advocated a “tougher program run by the CIA.” The result, he confided to his audience, is a “wealth of information that has foiled attacks against the United States; information that has saved countless innocent lives.”¹³

Now out of office, the former Vice President’s position has, if anything, become more entrenched. In an interview with *Politico* regarding the value of coercive interrogation, Mr. Cheney was dismissive of its critics. In the wake of President Obama’s executive orders on interrogation and detention policy, Mr. Cheney suggested the Obama Administration is naïve, if not negligent, in leaving the United States vulnerable to a catastrophic terrorist attack. Eventually, he said, the President will have to rescind these orders or the American people will suffer the consequences, because protecting America against terrorism is “a tough, mean, dirty, nasty business. These are evil people. And we’re not going to win this fight by turning the other cheek.” When the classified files on terrorism are opened, Mr. Cheney continued, his controversial positions will be vindicated, and the record will show that waterboarding and other coercive techniques he advocated prevented another 9/11.¹⁴ In fact, in late March, Mr. Cheney formally requested the declassification and public release of two CIA reports that he contended will validate his pronouncements on the value of coercive interrogation.¹⁵

The former Vice President’s most expansive and combative statement on this issue occurred on 21 May 2009 in a speech at the American Enterprise Institute. Taking his detractors head-on, Mr. Cheney was unapologetic for his endorsement of enhanced interrogation techniques and defiant in his defense of the Bush Administration’s national security record. “I was and remain a strong proponent of our enhanced interrogation program. The interrogations . . . were legal, essential, justified,

successful, and the right thing to do . . . because they prevented the violent death of thousands, if not hundreds of thousands, of innocent people.” Ridiculing his opponents’ “feigned outrage based on a false narrative” and condemning their “contrived indignation and phony moralizing,” Mr. Cheney was unequivocal: “Releasing the interrogation memoranda was flatly contrary to the national security interest of the United States.” Furthermore, he accused the Obama Administration of trying to have it both ways, selectively redacting portions of the released memoranda while refusing to release others that would prove his case. “For reasons the Administration has yet to explain, they believe the public has a right to know the method of the questions, but not the content of the answers.” The President’s decision to prohibit enhanced interrogation, according to Mr. Cheney, is “recklessness cloaked in righteousness, and would make the American people less safe.”¹⁶ His clear message, delivered in an earlier Fox News interview, is that tough interrogations worked; “they kept us safe for seven years.”¹⁷

Mr. Cheney is not alone in his convictions. US Supreme Court Justice Antonin Scalia, a fan of Fox network’s hit drama *24*, has championed the show’s federal agent protagonist, Jack Bauer, who regularly saves the nation by violently interrogating and suppressing terrorists. During a panel discussion on terrorism and torture law with Canadian jurists in June 2007, Mr. Scalia asserted that the law should provide some allowance for officials who attempt to stop catastrophic events, even if their actions require them to exceed legal norms. It is unreasonable in such circumstances for laws designed for civil society to restrict a counterterrorism agent’s behavior, he said. “So the question is really whether we believe in these absolutes. And ought we believe in these absolutes.” Perhaps one of Bauer’s favorite lines may be useful to Mr. Scalia in future Supreme Court deliberations: “I don’t want to bypass the Constitution, but these are extraordinary circumstances.”¹⁸

A softer version of the mantra implying that extraordinary circumstances may demand exceptional responses also has been circulating among unlikely commentators, including at least one of the former Bush Administration’s fiercest critics. Senator Dianne Feinstein, now chairman of the Senate Select Committee on Intelligence, championed the 2008 legislation to apply FM 2-22.3 to CIA interrogations, the measure which President Bush vetoed. In a December 2008 interview with *The New York Times*, however, Senator Feinstein said, “I think that you have to use the noncoercive standard to the greatest extent possible,” but she seemed to leave that standard open to exceptions under extreme circumstances, such as an impending terrorist attack.¹⁹ Because of questions raised by her

comments, she twice clarified them in prepared statements to the media emphasizing her commitment to “a single, clear standard for interrogation across the federal government,” and singling out the Army Field Manual as that standard. As a caveat, she added, “If the incoming administration decides to propose an alternative to this legislation, I am willing to hear its views. But I believe we must put an end to coercive interrogations by the CIA.”²⁰

Leon Panetta, appointed by President Obama to head the Central Intelligence Agency, in his confirmation hearing before the Senate Select Committee on Intelligence, also acknowledged there might be a need for exceptional responses to an uncooperative terrorism suspect, “if we had a ticking bomb situation, and obviously, whatever was being used I felt was not sufficient.”²¹ In later questioning, however, Mr. Panetta said he would examine the information obtained by enhanced interrogation methods, to determine “how effective they were or weren’t and whether any appropriate revisions need to be made.” Additionally, he promised to examine what damage may have been done to US national security by using such techniques, irrespective of whether they were useful in obtaining accurate information. According to Mr. Panetta, “Our greatest weapon is our moral authority The sense that we were willing to set that aside, I think, did damage our security.”²²

Even President Obama seems to have allowed the possibility of needing an exceptional response. In addition to making FM 2-22.3 the common standard for interrogations across the intelligence community, the executive order creates a “Special Task Force on Interrogation and Transfer Policies.” The mission of that task force, with respect to interrogation, is “to study and evaluate whether the interrogation practices and techniques in Army Field Manual 2-22.3, when employed by departments or agencies outside the military, provide an appropriate means of acquiring the intelligence necessary to protect the Nation, and, if warranted, to recommend any additional or different guidance for other departments or agencies.”²³ Mr. Obama’s critics accuse him of trying to play both sides of the street, publicly requiring the CIA to “giv[e] prisoners gentler treatment than common criminals,” while using the task force as a cover to create and justify the so-called Jack Bauer Exception which will allow the CIA to continue to use aggressive interrogation techniques against terrorists in extraordinary circumstances.²⁴ Former Vice President Cheney is also critical, wondering why, if President Obama considers enhanced interrogation techniques to be ineffective and immoral, he “has reserved unto himself the right to order [their] use . . . should he deem it appropriate.”²⁵ Such dual standards could potentially immobilize intelligence operatives, causing them to be uncertain

of which standard they will be held to, and jeopardize national security in the process.²⁶

Vital Resource or Pernicious Practice?

In his weekly radio address to the American people on 8 March 2008, the day he vetoed the Intelligence Authorization Act for Fiscal Year 2008, President Bush intimated that the CIA's special interrogation program was a key factor in the United States avoiding further attacks by al Qaeda since 9/11. Conceding to Congress, according to Mr. Bush, by restricting the "CIA to methods in the Field Manual . . . could cost American lives. We have no higher responsibility than stopping terrorist attacks. And this is no time for Congress to abandon practices that have a proven track record of keeping America safe."²⁷ In the waning days of the Bush Administration, Director of National Intelligence Admiral Michael McConnell and CIA Director General Michael Hayden vociferously reinforced Mr. Bush's assertions. Admiral McConnell, in a television interview, said limiting all interrogators to the methods in FM 2-22.3 would undermine national security, insinuating these techniques will not work on "a hardened terrorist who is willing to die for his cause, who wants to have mass destruction right here in New York, who will not talk to you or give you information."²⁸

General Hayden was even more adamant. In a January 2009 media interview prior to the announcement of the executive order on interrogation, he projected a grim picture of lost opportunities to protect American citizens if enhanced interrogation techniques were outlawed entirely. Military interrogators are trying to obtain "transient battlefield information," while "[CIA is] trying to get strategic intelligence from the highest-value detainees about imminent threats to the homeland." The bottom line, according to General Hayden, is "these techniques worked Do not allow others to say it didn't work It worked."²⁹ Hayden's remarks echo those of an earlier Director of Central Intelligence (DCI), George Tenet, on whose watch the 9/11 attacks occurred. In an April 2007 *60 Minutes* interview, Mr. Tenet declared, "I know that this program has saved lives. I know we've disrupted plots I know this program alone is worth more than the FBI, the Central Intelligence Agency, and the National Security Agency put together have been able to tell us."³⁰

The strongest on-the-record endorsement for General Hayden's claim comes from CIA operations officer John Kiriakou, who oversaw the capture and interrogation of Abu Zubaydah. This interrogation, according to Kiriakou in an interview with ABC News correspondent Brian Ross, led to major intelligence breakthroughs that "disrupted a number of attacks,

maybe dozens of attacks Once the information started coming in and we were able to corroborate it with other sources and able to . . . disrupt other . . . al Qaeda operations, that was a big victory.”³¹ Kiriakou, who chose not to be trained in enhanced interrogation techniques,³² nonetheless believes their use to break down Abu Zubaydah’s resistance had a powerful emotional effect on convincing him to cooperate. Kiriakou says that shortly after Abu Zubaydah was waterboarded “he told his interrogator that Allah had visited him in his cell during the night and told him to cooperate because his cooperation would make it easier on the other brothers who had been captured. And from that day on he answered every question just like I’m sitting here speaking to you.”³³

Critics of enhanced interrogation techniques such as Milt Bearden, a 30-year veteran of CIA clandestine operations, have consistently challenged the former Bush Administration’s position on how much safer the American people are as a result of the CIA’s aggressive methods. Writing in *The Washington Independent*, Bearden took the Bush Administration to task for its repeated assurances that by revealing terrorist plots before they were launched, enhanced interrogation techniques have saved American lives. Bearden maintained, “The [Bush] Administration’s claims of having ‘saved thousands of Americans’ can be dismissed out of hand because credible evidence has never been offered—not even an authoritative leak of any major terrorist operation interdicted based on information gathered from these interrogations in the past seven years.” Rather, Bearden perceived that the statements reflected the battle raging since 9/11 between the “old hands” in the CIA, who reject coercive techniques because they consider them ineffective and even worse undermining of American values, and the “take off the gloves group,” most of whom are not interrogators, but who rose to positions of prominence by accommodating the desire to get tough with terrorists.³⁴

Reporting by Dan Eggen and Walter Pincus in *The Washington Post* noted that Federal Bureau of Investigation (FBI) officials were skeptical about the accuracy and completeness of the information extracted from Abu Zubaydah after CIA interrogators subjected him to waterboarding and other enhanced techniques. Officials from both the FBI and CIA agree that Abu Zubaydah provided crucial information during earlier noncoercive interrogations. For example, he confirmed the identities of 9/11 operations chief Khalid Sheikh Mohammed and American al Qaeda operative Jose Padilla. Questions about the truthfulness of information Abu Zubaydah supplied afterward, however, raised a furor between the two agencies.³⁵

FBI Special Agent Ali Soufan, who conducted the early interrogations of Abu Zubaydah, has now broken his seven-year silence. In

a 23 April 2009 *New York Times* op-ed, a *Newsweek* article by Michael Isikoff, and testimony before the Senate Committee on the Judiciary, Soufan contradicted “false claims magnifying the effectiveness of so-called enhanced interrogation techniques like waterboarding.” According to Soufan, “There was no actionable intelligence gained from using enhanced interrogation techniques on Abu Zubaydah that wasn’t, or couldn’t have been, gained from regular tactics The short-sightedness behind the use of these techniques ignored the unreliability of the methods, the nature of the threat, the mentality and modus operandi of the terrorists, and due process.”³⁶

The ultimate value of enhanced interrogation techniques supposedly is expediency—to quickly elicit time-sensitive and vital information, such as that required to defuse the proverbial “ticking time-bomb.” It is therefore particularly damning that Soufan, who has “personally interrogated many terrorists and elicited important actionable intelligence,” found that such techniques operationally are “ineffective, slow, and unreliable, and as a result harmful to our efforts to defeat al Qaeda.” The problem with enhanced interrogation, Soufan maintained, is that it attempts to replace a “knowledge-based approach,” focused on a “detainee’s history, mindset, vulnerabilities, or culture,” with one based on “submission through humiliation and cruelty.”³⁷ Even more damaging, Soufan contended, was the exclusion of FBI agents from further contact with detainees after the agents refused to adopt the CIA’s enhanced techniques. “Our agents who knew the most about the terrorists could have no part in the investigation.”³⁸

Special Agent Dan Coleman, who, until he retired in 2004, was the FBI’s lead investigator on Osama bin Laden and al Qaeda, contradicts former DCI George Tenet’s contention that “Abu Zubaydah had been at the crossroads of many al Qaeda operations and was in position to—and did—share critical information with his interrogators.” As a result of the harsh methods used to interrogate Abu Zubaydah, Coleman declared, “I don’t have confidence in anything he says, because once you go down that road, everything you say is tainted He was talking before they did that to him, but they didn’t believe him. The problem is they didn’t realize he didn’t know all that much.” Coleman, having carefully studied Abu Zubaydah’s diary, which was confiscated when he was taken into custody, believes he exaggerated his role in al Qaeda. The CIA, on the other hand, was convinced Abu Zubaydah was simply resisting interrogation. When he was not forthcoming with information the CIA expected him to know, CIA interrogators used enhanced techniques to break his spirit. In reality, Coleman contends, after being waterboarded Abu Zubaydah became more talkative but not more truthful. The threat information he provided

post-waterboarding was “crap,” according to Coleman. “There’s an agency mindset that there was always some sort of golden apple out there, but there just isn’t, especially with guys like him.”³⁹ Given that the CIA Director of Operations in November 2005 ordered the destruction of videotapes documenting the interrogations of Abu Zubaydah and other alleged senior al Qaeda leaders, the debate over the significance of their revelations and the value of enhanced interrogation techniques in obtaining them may never be known.

According to Air Force Major Matthew Alexander, the senior interrogator who supervised and conducted interrogations that helped locate and kill al Qaeda in Iraq leader Abu Musab al-Zarqawi, talk was more important than threats in breaking down the resistance and gaining the cooperation of captured operatives. Old guard interrogators, who had honed their skills in Guantanamo, Afghanistan, and Iraq at an earlier time, “mocked those of us who didn’t imitate their methods of interrogation, which were based on fear and control.” Such tactics reinforced terrorists’ prejudices and played into al Qaeda’s propaganda, severely undermining US counterterrorism efforts. What worked for Alexander and a small group of his cohorts, he said, was embracing “America’s strengths—cultural understanding, tolerance, compassion, and intellect We will win this war by being smarter, not harsher. For those who would accuse me of being too nice to our enemies, I encourage you to examine our success in hunting down Zarqawi and his network. The drop in suicide bombings in Iraq at two points in the spring and summer of 2006 was a direct result of our smarter interrogation methods.”⁴⁰

Despite such testimonials, the controversy over what works in interrogation remains unresolved. General Hayden, former DCI Tenet, and Vice President Cheney, based on their previous access to sensitive information, publicly defend the CIA’s use of enhanced interrogation techniques as vital for obtaining accurate information from hardened terrorists. Without the same access, it is impossible to confirm or refute their argument. In his statement to a Senate Committee on the Judiciary subcommittee, Philip Zelikow, former Counselor to Secretary of State Condoleezza Rice, explained that “the point is not whether the CIA produced useful intelligence. Of course it did. Quite a lot. The CIA had exclusive custody of a number of the most important al Qaeda captives in the world, for years And, even though the program may have some value against some prisoners, it has serious drawbacks.”⁴¹ Among those drawbacks, according to Generals Charles Krulak and Joseph Hoar, former senior US Marine Corps commanders, is that information gained through coercion creates a “false security” that leads to other negative consequences. What are those

consequences? First, Krulak and Hoar explained, coercive interrogation, initially implemented as an exceptional response to extraordinary circumstances, quickly becomes normal behavior. Subordinates begin to see every “captured prisoner . . . [as] the key to defusing the potential ticking time-bomb.” What was once “the rare exception fast [becomes] the rule.” Additionally, enemies use the issue of coercive interrogations to rally the support of terrorist sympathizers, win recruits, and justify brutal treatment of US prisoners.⁴² Ultimately, the most costly consequence of coercive interrogations is the potential weakening of America’s own values. Despite enemy provocations, the United States cannot fail in upholding its values. “To do differently,” Senator John McCain told the US Senate in 2005, “not only offends our values as Americans, but undermines our war effort . . . [Although] the enemy we fight has no respect for human life or human rights . . . this isn’t about who they are. This is about who we are. These are the values that distinguish us from our enemies, and we can never, never allow our enemies to take those values away.”⁴³

Even if enhanced interrogation techniques are effective in gaining accurate information, what is the cost-benefit tradeoff if noncoercive measures might have garnered equivalent or even better results? Anecdotal accounts from former interrogators and selective case studies provide some insight, but there have been no systematic studies that address this question.⁴⁴ This situation, apparently, is changing. Leon Panetta, during Senate hearings on his nomination to be the new CIA Director, acknowledged the importance of answering it. He has engaged a formal process to evaluate, separately and in cooperation with the interagency task force, FM 2-22.3’s sufficiency to meet CIA requirements. Additionally, Mr. Panetta is overseeing a review of the actual effectiveness of enhanced interrogation techniques, examining both the value of information provided to CIA interrogators and the costs associated with extracting that information compared to noncoercive approaches.⁴⁵ Not to be outdone, Senator Feinstein has commissioned a similar study on the comparative value of coercive and noncoercive interrogation techniques.⁴⁶

From Interrogation to Intelligence Interviewing

Where do we go from here? As highlighted in the Intelligence Science Board’s 2006 landmark study, *Educating Information: Interrogation: Science and Art, Foundations for the Future*, the US government has funded no significant research programs on interrogation-related topics in the past 40 years. There is no objective scientific basis for the techniques commonly used by US interrogators; and no single intelligence community

organization with current responsibility, authority, capability, and accountability to develop the range of operational, training, and research activities regarding interrogation needed now and in the future.⁴⁷

Following President Obama's executive order on interrogation, FM 2-22.3 is now the common standard on intelligence interrogation for the US government. The Army Field Manual will serve as a placeholder until the interagency task force, convened by the executive order, provides its report on FM 2-22.3's long-term viability. During its deliberations a primary goal of the task force should be to make the US government the world leader in noncoercive intelligence interviewing (the word "interrogation" being replaced with "intelligence interviewing" to show a clear break from the past) during the next three to five years. To support this goal the US government should create, within the intelligence community, a small, elite cadre of intelligence interviewers dedicated to developing robust new ideas and practices to guide present and future operations in noncoercive, ethical interrogation.

This cadre should be led by and composed of US government professionals; utilize the best knowledge available worldwide, including contributions from the behavioral and social sciences; share the best people and ideas from intelligence, law enforcement, and military organizations; and operate within a clear legal and ethical framework.

The four primary functions of the cadre would consist of: (1) operational responsibilities for intelligence interviewing with persons believed to have critical national security information both within and outside the United States; (2) development of new knowledge concerning intelligence interviewing through operational and academic research; (3) teaching and training; and (4) liaison with foreign organizations and professionals with intelligence interviewing responsibilities.

President Obama's executive order on interrogation provides an excellent opportunity to end abusive practices and to propose a new agenda for intelligence interviewing that increases the capability to collect accurate information from enemy detainees effectively and humanely. Seizing this opportunity is essential to increasing the chances of success for counterterrorism operations worldwide and reducing risks to the lives of American service members and civilians, as well as detainees. Doing so enhances the broader national security agenda without sacrificing American values.⁴⁸

NOTES

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2. See sec. 1002 of the Detainee Treatment Act of 2005, as reproduced in Bernard J. Hibbitts, ed., *Jurist: Legal News and Research*, 31 December 2005, <http://jurist.law.pitt.edu/gazette/2005/12/detainee-treatment-act-of-2005-white.php>.

3. US House of Representatives, "Conference Report," Intelligence Authorization Act for Fiscal Year 2008, Report 110-478, <http://intelligence.senate.gov/110478.pdf>, 27.

4. George W. Bush, "Message to the House of Representatives Returning without Approval the 'Intelligence Authorization Act for Fiscal Year 2008,'" 8 March 2008, *Weekly Compilation of Presidential Documents*, 44 (17 March 2008), 346.

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6. George W. Bush, "Executive Order: Interpretation of the Geneva Conventions Common Article 3 as Applied to a Program of Detention and Interrogation Operated by the Central Intelligence Agency," 20 July 2007, *Weekly Compilation of Presidential Documents*, 43 (30 July 2007), 1001.

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9. "Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, Re: Application of United States Obligations under Article 16 of the Convention Against Torture to Certain Techniques that May Be Used in the Interrogation of High Value al Qaeda Detainees," 9.

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